

HOUSE BILL 800

N2

0lr2516

By: **Delegates Dumais, Cardin, Feldman, Gilchrist, Kaiser, Kramer, Lafferty, and Montgomery**

Introduced and read first time: February 9, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Estates in Probate, Guardianship Proceedings, and**
3 **Small Estates – Fees**

4 FOR the purpose of providing that a register of wills is not required to record certain
5 documents or make copies of certain documents unless the applicable charge is
6 paid; altering certain fees charged for the administration of an estate in probate
7 and for guardianship proceedings; repealing certain administrative fees; adding
8 certain administrative fees; altering certain fees charged for the administration
9 of a small estate; adding categories related to the value of a small estate; adding
10 fees based on the value of certain categories of small estates; making technical
11 changes; and generally relating to fees charged for the administration of estates
12 in probate, guardianship proceedings, and small estates.

13 BY repealing and reenacting, with amendments,
14 Article – Estates and Trusts
15 Section 2–206 and 5–606
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2009 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Estates and Trusts**

21 2–206.

22 (a) **(1)** The registers of wills are entitled to charge and collect for the
23 performance of their duties the fees in this section.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) UNLESS OTHERWISE PROVIDED BY LAW, A REGISTER IS NOT**
 2 **REQUIRED TO RECORD ANY PAPER OR PROVIDE A COPY OF A PAPER TO A**
 3 **PERSON UNTIL THE APPLICABLE CHARGE IS PAID.**

4 (b) (1) For taking probate of wills and furnishing 2 certified copies of the
 5 will and codicils, granting letters of administration and furnishing 12 certificates of
 6 letters, issuing warrants to appraise, entering on estate docket, filing elections of
 7 surviving spouses to take intestate shares, filing renunciations and disclaimers, filing
 8 and recording wills, bonds, inventories, accounts of sale, releases, administration
 9 accounts, petitions and orders, and other papers filed in the administration of
 10 decedents' estates not otherwise specified in subsections (c) through (l) of this section,
 11 the probate fees under paragraph (2) of this subsection.

12 (2) Probate fees shall be assessed on the value of the probate estate at
 13 the following rates:

	If the Value of the Probate Estate Is At Least	But Less Than	The Fee Is	
20	(i) —	\$ 10,000	[\$ 50]	\$ 75
21	(ii) \$ 10,000	\$ 20,000	[\$ 100]	\$ 150
22	(iii) \$ 20,000	\$ 50,000	[\$ 150]	\$ 225
23	(iv) \$ 50,000	\$ 75,000	[\$ 200]	\$ 300
24	(v) \$ 75,000	\$ 100,000	[\$ 300]	\$ 450
25	(vi) \$ 100,000	\$ 250,000	[\$ 400]	\$ 600
26	(vii) \$ 250,000	\$ 500,000	[\$ 500]	\$ 750
27	(viii) \$ 500,000	\$ 750,000	[\$ 750]	\$ 1,125
28	(ix) \$ 750,000	\$1,000,000	[\$1,000]	\$ 1,500
29	(x) \$1,000,000	\$2,000,000	[\$1,500]	\$ 2,250
30	(xi) \$2,000,000	\$5,000,000	[\$2,500]	\$ 3,750
31	(xii) \$5,000,000	—	[\$2,500]	\$ 3,750
32			plus .02% of excess	
33			over \$5,000,000	

34 (3) Except as provided in paragraph (4) of this subsection, for purposes
 35 of determinations under paragraph (2) of this subsection, the value of a probate estate
 36 is the amount, as reflected in the administration accounts filed in the proceedings,
 37 that equals:

38 (i) The sum of:

39 1. The value of all inventories filed in the proceedings;

1 2. All principal and income receipts; and

2 3. All increases realized on a disposition, other than a
3 distribution to beneficiaries, of any probate asset; less

4 (ii) All decreases realized on a disposition, other than a
5 distribution to beneficiaries, of any probate asset.

6 (4) If an estate proceeds through modified administration, for the
7 purpose of determining the appropriate fee under paragraph (2) of this subsection, the
8 value of an estate is the gross value of the probate assets reported on the final report
9 under modified administration.

10 (5) (i) Except as provided in subparagraphs (ii) and (iii) of this
11 paragraph, the register shall assess and collect the probate fee when the first
12 administration account is filed.

13 (ii) If there are any additions to the value of a probate estate, as
14 reflected in any subsequent administration account, the register shall:

15 1. Assess an additional fee in an amount equal to the
16 excess of:

17 A. The fee as determined under paragraph (2) of this
18 subsection based on the value of the probate estate as reflected in the currently filed
19 administration account; over

20 B. The fee as determined under paragraph (2) of this
21 subsection based on the value of the probate estate as reflected in the most recent
22 previously filed administration account; and

23 2. Collect the additional fee when the subsequent
24 administration account is filed.

25 (iii) If an estate proceeds through modified administration, the
26 register shall assess and collect the probate fee when the personal representative files
27 the final report under modified administration.

28 (c) For furnishing additional certificates of letters, with seal..... **[\$1] \$5**

29 (d) For affixing seal of office to a transcript or other paper, if expressly
30 required by law or a person **[\$1] \$5**

31 (e) [For affixing seal of office to a certificate, transcript, or other paper
32 exemplified under the act of Congress..... **\$2**

1 (f) For passing and entering every claim or voucher against an estate of a
2 deceased person, and endorsing certificate on each claim or voucher when passed by
3 the court or register, for each **[\$3] \$5**

4 **[(g)] (F)** For entering papers in caveat or other controversial matter, for
5 each side **[\$10] \$100**

6 **[(h)]** For transcribing papers filed in caveat or other controversial proceedings
7 when taken to higher court, per page or part of a page \$2

8 (i) For recording papers filed in caveat or other controversial proceedings,
9 when mandate of higher court is filed, per page or part of a page \$2

10 (j) For copies of a paper or record, including plain certification and seal, per
11 page or part of a page \$2

12 **[(k)] (G)** For photostatic or other artificially reproduced copies of a paper or
13 record, per page or part of a page 50 cents

14 **[(l)] (H)** For receiving a will for deposit during the lifetime of the
15 testator **[\$5] \$20**

16 **[(m)] (I)** For all filing and entries regarding a guardianship proceeding, a
17 single fee **[of] FOR:**

18 **(1) GUARDIANSHIP PROCEEDINGS INVOLVING ASSETS TOTALING**
19 **LESS THAN \$10,000** \$20; **OR**

20 **(2) GUARDIANSHIP PROCEEDINGS INVOLVING ASSETS TOTALING**
21 **\$10,000 OR MORE** **\$100**

22 **[(n)] (J)** For receiving and paying over an inheritance tax due the State, the
23 register is allowed a commission of 25% of the inheritance tax.

24 **[(o)] (K)** For providing a probate information booklet and
25 materials \$2

26 **[(p)] (L)** For all proceedings involving a foreign personal representative, a
27 single fee of 1% of the gross value of the estate, not to exceed **[\$100] \$1,000**.

28 **(M) FOR ENTERING A PRO HAC VICE APPEARANCE** **\$25**

29 **(N) FOR PROVIDING A COPY OF A HEARING TAPE FROM ORPHANS'**
30 **COURT** **\$25**

1 (O) SHOW CAUSE ORDER:

2 (1) 1ST FREE

3 (2) 2ND..... \$25

4 (3) 3RD..... \$75

5 (4) 4TH AND EACH SUBSEQUENT..... \$150

6 (P) FOR RETURN OF A CHECK \$30

7 (Q) FOR THE COST OF ALL CERTIFIED MAILINGS, REGISTERED
8 MAILINGS, AND PRIVATE PROCESS SERVICE MAILINGS, THE RATE ESTABLISHED
9 BY THE U.S. POSTAL SERVICE.

10 5-606.

11 (a) (1) Except as provided in paragraph (2) of this subsection, for all
12 services listed in § 2-206(b)(1) of this article that a register performs in connection
13 with a small estate, the register shall receive the fees under subsection (b) of this
14 section instead of the fees under § 2-206(b)(2) of this article.

15 (2) For each additional certificate of letters over 4 furnished in
16 connection with a small estate, the register shall receive the additional fee under §
17 2-206(c) of this article.

18 (b) Fees for a small estate shall be assessed on the value of the small estate
19 at the following rates:

	If the Value of the Small Estate Is Greater Than	But No More Than	The Fee Is
24	(1) —	\$ 200	\$ 2
25 26 27 28	(2) \$ 200	[\$ 5,000] \$ 1,000	[1% of the Value of the Small Estate] \$ 10
29 30	(3) [\$ 5,000] \$ 1,000	[\$ 10,000] \$ 2,500	[\$ 50] \$ 25
31	(4) [\$ 10,000]	[\$ 20,000]	[\$ 100]

1		\$ 2,500	\$ 5,000	\$ 50
2	(5)	[\$ 20,000]	[\$ 50,000]	[\$ 150]
3		\$ 5,000	\$ 10,000	\$ 100
4	(6)	\$10,000	\$ 20,000	\$ 150
5	(7)	\$20,000	\$ 50,000	\$ 200

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2010.